

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, each Secretary concerned shall submit to the appropriate congressional committees a report on preparation of that Secretary to implement section 1561 of title 10, United States Code, as amended by subsection (a).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(A) the Committee on Armed Services of the Senate; and

(B) the Committee on Armed Services of the House of Representatives.

SA 3968. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title V, add the following:

SEC. 530C. PETITION FOR DNA TESTING UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

(a) IN GENERAL.—Subchapter IX of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 873 (article 73) the following new section:

“§ 873a. Art 73a. Petition for DNA testing

“(a) IN GENERAL.—Upon a written petition by an accused sentenced to imprisonment or death pursuant to a conviction under this chapter (referred to in this section as the ‘applicant’), the Judge Advocate General shall order DNA testing of specific evidence if the Judge Advocate General finds that all of the following apply:

“(1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of the offense for which the applicant is sentenced to imprisonment or death.

“(2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the offense referenced in the applicant’s assertion under paragraph (1).

“(3) The specific evidence to be tested—

“(A) was not previously subjected to DNA testing and the applicant did not knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or

“(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.

“(4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.

“(5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.

“(6) The applicant identifies a theory of defense that—

“(A) is not inconsistent with an affirmative defense presented at trial; and

“(B) would establish the actual innocence of the applicant of the offense referenced in

the applicant’s assertion under paragraph (1).

“(7) If the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial.

“(8) The proposed DNA testing of the specific evidence may produce new material evidence that would—

“(A) support the theory of defense referenced in paragraph (6); and

“(B) raise a reasonable probability that the applicant did not commit the offense.

“(9) The applicant certifies that the applicant will provide a DNA sample for purposes of comparison.

“(10) The petition is made in a timely fashion, subject to the following conditions:

“(A) There shall be a rebuttable presumption of timeliness if the petition is made within five years of the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022 or within three years after the date of the entry of judgment under section 860c of this title (article 60c), whichever comes later. Such presumption may be rebutted upon a showing—

“(i) that the applicant’s petition for a DNA test is based solely upon information used in a previously denied motion; or

“(ii) of clear and convincing evidence that the applicant’s filing is done solely to cause delay or harass.

“(B) There shall be a rebuttable presumption against timeliness for any petition not satisfying subparagraph (A). Such presumption may be rebutted upon the Judge Advocate General’s finding—

“(i) that the applicant was or is incompetent and such incompetence substantially contributed to the delay in the applicant’s motion for a DNA test;

“(ii) the evidence to be tested is newly discovered DNA evidence;

“(iii) that the applicant’s petition is not based solely upon the applicant’s own assertion of innocence and, after considering all relevant facts and circumstances surrounding the petition, a denial would result in a manifest injustice; or

“(iv) upon good cause shown.

“(C) For purposes of this paragraph—

“(i) the term ‘incompetence’ has the meaning given that term in section 876b of this chapter (article 76b); and

“(ii) the term ‘manifest’ means that which is unmistakable, clear, plain, or indisputable and requires that the opposite conclusion be clearly evident.

“(b) APPEAL OF DENIAL.—The applicant may appeal the Judge Advocate General’s denial of the petition of DNA testing to the Court of Appeals for the Armed Forces.

“(c) EVIDENCE INVENTORY; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

“(1) INVENTORY.—The Judge Advocate General shall order the preparation of an inventory of the evidence related to the case for which a petition is made under subsection (a), which shall be provided to the applicant.

“(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the Judge Advocate General shall direct the preservation of the specific evidence relating to a petition under subsection (a).

“(3) APPOINTMENT OF COUNSEL.—The applicant shall be eligible for representation by appellate defense counsel under section 870 of this chapter (article 70).

“(d) TESTING COSTS.—The costs of any DNA testing ordered under this section shall be paid by the Government.

“(e) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

“(1) any DNA testing ordered under this section shall be completed not later than 60

days after the date on which the test is ordered by the Judge Advocate General; and

“(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the Judge Advocate General shall order any post-testing procedures under subsection (f) or (g), as appropriate.

“(f) DISCLOSURE OF TEST RESULTS.—Reporting of test results shall be simultaneously disclosed to the Government and the applicant.

“(g) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

“(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the Judge Advocate General may order further testing, if appropriate, or may deny the applicant relief.

“(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the Judge Advocate General shall—

“(A) deny the applicant relief; and

“(B) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

“(h) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

“(1) IN GENERAL.—Notwithstanding any provision of law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a petition for a new trial or resentencing, as appropriate.

“(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The applicant’s petition for a new trial or resentencing, as appropriate, shall be granted if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by compelling evidence that a new trial would result in the acquittal of the applicant.

“(i) RELATIONSHIP TO OTHER LAWS.—

“(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other provision of law.

“(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 873 (article 73) the following new item:

“873a. Art 73a. Petition for DNA testing.”

SA 3969. Ms. HIRONO submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title XXVIII, add the following:

SEC. 2836. FIVE-YEAR UPDATES OF HAWAII MILITARY LAND USE MASTER PLAN.

(a) SENSE OF CONGRESS.—Given the extent and significance of the presence of the Armed Forces and the Department of Defense in Hawai‘i and the limited geography of the State, it is the sense of Congress that the Secretary of Defense should do the following:

(1) Synchronize all of the training activities, land holdings, and operations of the Armed Forces for the most efficient use and stewardship of land in Hawai'i.

(2) Ensure that the partnership between the Department and Hawai'i is mutually advantageous and based on the following principles:

(A) Respect for the land, people, and culture of Hawai'i.

(B) Commitment to building strong, resilient communities.

(C) Maximum joint use of land holdings of the Department.

(D) Optimization of existing training, operational, and administrative facilities of the Armed Forces.

(E) Synchronized communication from United States Indo-Pacific Command across all military components with State government, State agencies, county governments, communities, and Federal agencies on critical land and environmental topics.

(b) REQUIRED UPDATE OF MASTER PLAN.—

(1) PLAN UPDATE REQUIRED.—Not later than December 31, 2025, and every five years thereafter through December 31, 2045, the Deputy Assistant Secretary of Defense for Real Property shall update the Hawai'i Military Land Use Master Plan, which was first produced by the Department of Defense in 1995 and updated in 2002 and 2021.

(2) ELEMENTS.—In updating the Hawai'i Military Land Use Master Plan under paragraph (1), the Deputy Assistant Secretary of Defense for Real Property shall consider, address, and include the following:

(A) The priorities of each individual Armed Force and joint priorities within the State of Hawai'i.

(B) The historical background of the use of land in Hawai'i by the Armed Forces and Department of Defense and the cultural significance of the historical land holdings.

(C) A summary of all leases and easements held by the Department.

(D) An overview of assets of the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, Hawai'i National Guard, and Hawai'i Air National Guard in the State, including the following for each asset:

(i) The location and size of facilities.

(ii) Any tenet commands.

(iii) Training lands.

(iv) Purpose of the asset.

(v) Priorities for the asset for the next five years, including any planned divestitures and expansions.

(E) A summary of encroachment planning efforts.

(F) A summary of efforts to synchronize the inter-service use of training lands and ranges.

(3) COOPERATION.—The Deputy Assistant Secretary of Defense for Real Property shall carry out this subsection in conjunction with the Commander of United States Indo-Pacific Command.

(c) SUBMISSION OF UPDATED PLAN.—Not later than 30 days after the date of the completion of an update to the Hawai'i Military Land Use Master Plan under subsection (b), the Deputy Assistant Secretary of Defense for Real Property shall submit to the Committees on Armed Services of the Senate and the House of Representatives the updated master plan.

SA 3970. Ms. HIRONO (for herself, Mr. MENENDEZ, and Ms. DUCKWORTH) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military con-

struction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title X, add the following:

SEC. 105. RUNIT DOME REPORT AND MONITORING ACTIVITIES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior (referred to in this section as the "Secretary") shall submit to the Committee on Energy and Natural Resources of the Senate and the Committees on Natural Resources and Energy and Commerce of the House of Representatives a report prepared by independent experts not employed by the Federal Government that describes—

(1) the impacts of climate change on the Runit Dome nuclear waste disposal site in Enewetak Atoll in the Republic of the Marshall Islands; and

(2) other environmental hazards in the vicinity of the Runit Dome.

(b) REQUIREMENTS.—The report submitted under subsection (a) shall include—

(1) a detailed scientific analysis of any threats to the environment and to the health and safety of Enewetak Atoll residents from—

(A) the Runit Dome nuclear waste disposal site;

(B) crypts used to contain nuclear waste and other toxins on Enewetak Atoll;

(C) radionuclides and other toxins in the lagoon of Enewetak Atoll, including areas in the lagoon at which nuclear waste was dumped;

(D) radionuclides and other toxins, including beryllium, which may be present on the islands of Enewetak Atoll as a result of nuclear tests and other activities of the Federal Government, including—

(i) tests of chemical and biological warfare agents;

(ii) rocket tests;

(iii) contaminated aircraft landing on Enewetak Island; and

(iv) nuclear cleanup activities;

(E) radionuclides and other toxins that may be present in—

(i) the drinking water on Enewetak Atoll; or

(ii) the water source for the desalination plant for Enewetak Atoll; and

(F) radionuclides and other toxins that may be present in the groundwater under, and in the vicinity of, the Runit Dome nuclear waste disposal site;

(2) a detailed scientific analysis of the extent to which rising sea levels, severe weather events, and other effects of climate change might exacerbate any of the threats identified under paragraph (1); and

(3) a detailed plan, including the costs of implementing the plan, to relocate to a safe, secure facility to be constructed in an uninhabited, unincorporated territory of the United States all of the nuclear waste and other toxic waste contained in—

(A) the Runit Dome nuclear waste disposal site;

(B) each of the crypts on Enewetak Atoll containing nuclear waste; and

(C) the 3 dumping areas in the lagoon of Enewetak Atoll.

(c) PARTICIPATION BY THE REPUBLIC OF THE MARSHALL ISLANDS.—The Secretary shall allow scientists or other experts selected by the Government of the Republic of the Marshall Islands to participate in all aspects of the preparation of the report required under subsection (a), including—

(1) developing the plan under subsection (b)(3);

(2) identifying questions;

(3) conducting research; and

(4) collecting and interpreting data.

(d) PUBLICATION.—The report required under subsection (a) shall be published in the Federal Register for public comment for a period of not less than 60 days.

(e) PUBLIC AVAILABILITY.—The Secretary shall publish on a public website—

(1) the study required under subsection (a); and

(2) the results of any research submitted under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR REPORT.—There are authorized to be appropriated to the Assistant Secretary of Insular and International Affairs of the Department of the Interior to complete the report under subsection (a) such sums as are necessary for fiscal year 2022.

(2) AUTHORIZATION OF APPROPRIATIONS FOR RUNIT DOME MONITORING ACTIVITIES.—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary to comply with the requirements of section 103(f)(1)(B) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(f)(1)(B)).

SA 3971. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V, insert the following:

SEC. [DAV21M33]. SELECTION PROCESS FOR MEMBERS TO SERVE ON COURTMARTIAL.

Section 825(e) of title 10, United States Code (article 25(e) of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (3), (4), and (5), respectively;

(2) by inserting after "(e)", the following: "(1) When convening a court-martial, the convening authority shall detail as members thereof members of the armed forces under such regulations as the President may prescribe for the randomized selection of qualified personnel available to the convening authority for detail.

"(2) The randomized selection process developed and implemented under paragraph (1) may include parameter controls that—

"(A) allow for exclusions based on scheduling availability;

"(B) allow for controls based on military rank; and

"(C) allow for controls to promote gender, racial, and ethnic diversity and inclusion.";

and

(3) in paragraph (4), as redesignated by paragraph (1), by—

(A) striking the first sentence; and

(B) striking "when he is" and inserting "when the member is".

SA 3972. Mrs. GILLIBRAND submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be